

MEMORANDUM

TO: District of Columbia Zoning Commission

FROM: ^{JLS} Jennifer Steingasser, Deputy Director Development Review & Historic Preservation

DATE: March 22, 2017

**SUBJECT: ZC 14-11 B: Post Hearing Comments
Text Amendment to the Zoning Regulations: Subtitle B, Definitions, Subtitle D,
Zones R-3, R-13, R-17 and R-20, Subtitle E, RF zones and Subtitle U, Uses.**

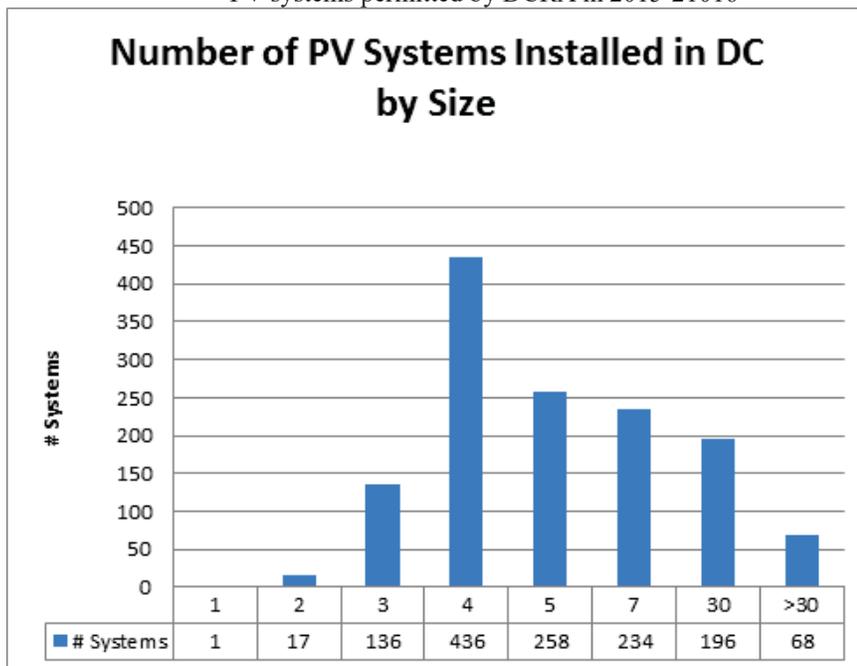
At the public hearing of November 17, 2016, the Zoning Commission requested some additional information prior to final action. The Commission also requested OP provide comments in response to public comments in the record which closed Monday, March 13, 2017.

Solar Energy System

The Commission requested information on the Department of Consumer and Regulatory Affairs (DCRA) recommendation for a minimum solar energy system of two kilowatts, what the minimum standard means in terms of number of panels and any statistics that they have on how many and what size systems have been installed. The Commission wanted to be sure that the minimum size recommendation would not overly restrict the ability of a property owner to install a system.

The Zoning Administrator’s Office and the Green Building Code Inspector in the Department of Consumer and Regulatory Affairs provided the following information. They reported that “the 2kW size is pretty much as small” as they have seen (see table below) and will help avoid certain abuses of the regulations, by installing for example a stand-alone solar garden path light as a solar system.

PV systems permitted by DCRA in 2015-21016



It is estimated that a 2kW Solar System needs eight (8) solar panels, assuming 250W panels. Each panel is about 5 feet-3 inches by 3 feet-3 inches, needing at least 140 square feet of roof space.

PUBLIC COMMENTS in the Record

ANC 6B (Capitol Hill) (Exhibit 7)

Comment:

ANC 6B appreciates the clarifications on the rear yard addition requirements that affects Capitol Hill zones. We also strongly support clarifying language around non-residential conversions and to the specific provisions for potential addition impacts to solar systems and to vent/chimneys. If anything, we are concerned that the vent/chimney provisions continue to be ambiguous and open to interpretation (e.g., what constitutes a ‘working’ vent/chimney), which could complicate housing development in the RF zones. We support any additional clarification OP and the ZC can provide on how to interpret property adjacency-based restrictions.

OP talked with the Zoning Administrator’s Office and they are comfortable with the term provided the phrase “*A chimney or other external vent must be existing and operative at the date of the building permit application for the addition*” is included as noticed in the proposed action (E-206.1 (b), U-301.2 (f), and U-320.2(f)). OP does not recommend any additional changes to this text.

Cindy Jimenez and Cris Turner (225 Tenn. Ave, NE) (Exhibit 11)

Comment Summary:

- They requested that the case be reopened for additional discussion;
- They stated that the ten foot rear addition unduly restricts properties on very long lots from modernizing and adding an addition if the adjoining neighbors have not;
- They stated that the first rowhouse to add a rear addition is limited to 10’ but each neighbor to that first rowhouse can go 10’ beyond that for a total of 20’ as a matter of right.

OP notes that an addition can extend further than 10 feet through a special exception; and being the first to extend within an established block could merit review for impact on adjacent neighbors. OP does not recommend any additional changes to the text as advertised.

Sandy Kheradi, Cameron Alexander Holdings, LLC (Exhibit 13)

Comment Summary:

- They oppose inclusion of porch roofs as architectural elements that require special exception approval to be modified or removed (E-206.1 (a), U-301.2 (e) and U-320.2(h))

OP does not recommend removing porch roofs as architectural elements. Porches and their roofs are very prominent features in Washington and are often a character defining element in a rowhouse block or on semi-detached pairs of buildings.

Tarique Jawed, Stony Creek Homes (Exhibit 12)

Comment Summary:

- They requested vesting provisions be added which either delay the implementation date of the new regulations, and/or provide that an owner may vest under the pre-existing Regulations if they have already submitted a fully completed building permit application.

Comments submitted to OP After the Record Closed

OP has also heard from other interested individuals after the close of the public record expressing concern about the change and a need for delayed implementation or vesting.

The issue of rear additions was raised in the original case 14-11 during discussion about conversion of flats to apartment buildings. This case has been in the public arena since it was set down and advertised for a public hearing eleven months ago.

The Case Chronology:

- April 29, 2016: case set down
- Sept. 21, 2016: Notice of Public Hearing published and sent to all ANCs
- Nov. 17, 2016: Public hearing held
- Feb. 10, 2017: Proposed action was noticed
- March 13, 2017: ZC postpones final action for two weeks so OP can review comments in the public record.

OP RECOMMENDATION

OP recommends the Commission take final action with no changes to the language advertised in the Notice of Proposed Rulemaking.

Vesting: OP has no objection to a limited vesting period for the proposed changes to the Rear Yard provisions relative to ten foot rear addition and has talked with the Zoning Administrator's Office who also has no objection to a limited vesting period.

OP recommends the Commission include in the final action the following new section Subtitle A § 301.14:

301.14 Notwithstanding Subtitle A § 301.4, Subtitle D §§ 306.3, 306.4, 706.3, 706.4, 1006.2, 1006.3 1206.3 and 1206.4, and, Subtitle E §§ 205.4 and 205.5, a rear wall of an attached or semi-detached building may be constructed to extend farther than ten feet (10 ft.) beyond the farthest rear wall of any adjoining principal residential building on an adjoining property provided that the building permit application for such construction was filed before July 1, 2017, accepted as complete by the Department of Consumer and Regulatory Affairs, and not substantially changed after filing.

OP requests flexibility for the Office of Attorney General to review the vesting language and edit it as necessary.